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May 2007

A Publication of the American Legislative Exchange Council

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# Stopping Global Warming: All cost, no benefit

By Daniel Simmons

Those who follow the global warming faith believe the Earth is headed toward a fiery destruction (global warming), that man is causing that destruction through sin (the release of carbon dioxide), and that forgiveness is easy ("inexpensive" carbon-dioxide caps and reduction policies). One of the main tenets of the global warming faith is to impose their belief system on others no matter what the cost.

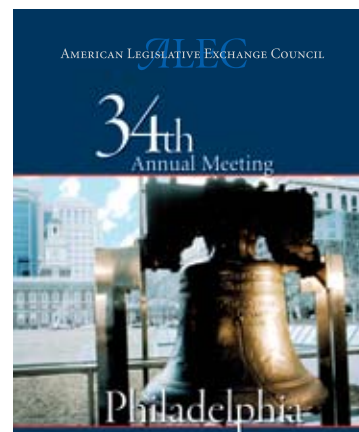
The Earth may be warming, and contrary to the mainstream media and environmental left, many scientists disagree on the cause. There is one certainty, however, in the global warming debate: policies that cap carbon dioxide emissions will be very expensive to implement.

In March, former Vice President Al Gore testified on Capitol Hill that capping carbon dioxide emissions and regulating carbon dioxide would not be economically damaging. For the time being, setting aside the economic concerns, will the proposed attempts to cap emissions even work?

Many in Congress want to follow the European Union's lead and create a "cap and trade" program for carbon dioxide. As Congressman Rick Boucher said, "We intend to gain the full benefit of the European experience with cap and trade...as we design a mandatory control program for the U.S." However, Rep. Boucher must recognize and consider the important data coming out of Europe, before possibly starting a cap-and-trade system.

First of all, Europe's carbon dioxide emissions are increasing. In the March 30 edition of *The Independent*, it was reported the UK's carbon dioxide emissions

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## ALEC 2007 Calendar

April 10	Membership Event	Jefferson City, MO
April 11	Membership Event	Carson City, NV
April 18	Membership Event	Oklahoma City, OK
April 19	Membership Event	Hartford, CT
April 24	Membership Event	Sacramento, CA
April 26-29	Spring Task Force Summit	Hilton Head, SC
July 25-29	34th Annual Meeting	Philadelphia, PA
December 5-8	States & Nation Policy Summit	Washington, D.C.



# Virginia Plans for Civil War Commemoration

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By Cheryl Jackson  
Division of Legislative Services  
Virginia General Assembly

The dawning of April 12, 1861 marked the first shot of what was to become the United States' bloodiest conflict, which stretched from Arizona and New Mexico to Pennsylvania and resulted in more than 620,000 American deaths. The American Civil War represents a turning point in U.S. history, when we were forced to rebuild our nation with a more solid foundation of liberty and individual freedom.

The state of Virginia has taken the initiative to plan the 150th anniversary commemoration of this violent but defining period of U.S. history. The sesquicentennial commission will serve as a standing committee through July 2015, a few months after the conclusion of the four-year commemoration.

Introduced in the Virginia Assembly in 2006 by ALEC Board Member and Speaker of the House of Delegates Bill Howell, House Bill 1440 has created the Virginia Sesquicentennial of the American Civil War Commission in order to prepare for and commemorate Virginia's participation in the American Civil War. Speaker Howell chairs the commission, with President pro tempore of the Senate, John Chichester, serving as vice-chair. Among the other 13 members of the commission are members of the House of Delegates and the Senate of Virginia, the President of the Virginia Historical Society, and the nationally recognized Civil War historian, Dr. James "Bud" Robertson of Virginia Tech.

Among the powers and duties of the Virginia Sesquicentennial of the American Civil War



# Civil War Commemoration

Continued from page 3

Commission are the following:

1. Encourage interdisciplinary examination of the war and develop programs and facilities to ensure that the sesquicentennial commemoration of the American Civil War results in a positive legacy and long-term public benefit;
2. Facilitate balanced activities related to the American Civil War throughout Virginia and the development and conduct of programs designed to involve all citizens in activities that commemorate the war;
3. Encourage and provide technical assistance to localities, civic, historical, educational, economic, and other organizations throughout Virginia to organize and participate in activities to expand the understanding and appreciation of the American Civil War.

Under Speaker Howell's leadership, the commission is already off to a strong start. It has adopted a logo and launched a Web site ([www.virginiacivilwar.org](http://www.virginiacivilwar.org)) to educate and involve the community.

Speaker Howell has presented a vision statement, "Understanding Our Past, Embracing Our Future," to guide the commemoration period. The commission has examined examples of past Civil War commissions, specifically the centennial commission, and discussed how to improve the upcoming commemoration. Special emphasis will be placed on the immigrant population, some of whom have come to America to escape civil wars in their native countries, as well as on the younger population, many of whom have little knowledge of the lasting historical impact of the American Civil War.

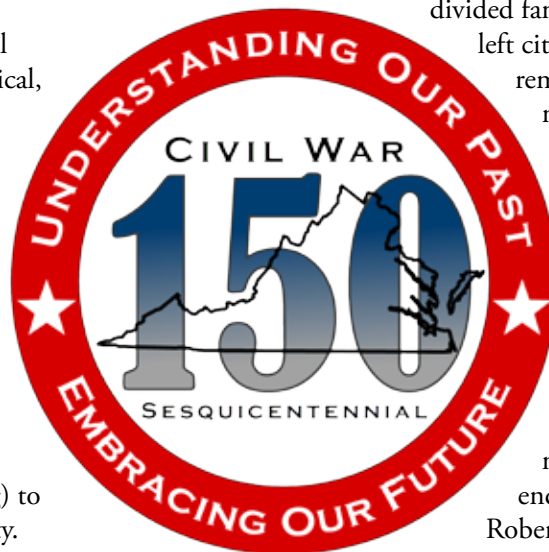
An advisory council, including representatives of museums, battlefields, state and local government, the education community, and other interested groups and individuals, was also formed to provide counsel for the commission as it develops its strategy. A central point is differentiating between a celebration and a commemoration; the 150th anniversary will be a commemoration of the American Civil War and Virginia's involvement in it.

Speaker Howell said "there is no joy to be found in a war that caused the deaths of over 620,000 Americans, divided families, tore apart a nation, and left cities in ruin. This must be a solemn remembrance of the Americans—men, women and children, black and white, from the North and the South—who lived, fought, and died for that which they believed."

Virginia was the site of more than 60 percent of the Civil War's battles, and was home to the bookends of the war: the first major battle (Manassas) and the end of the war (Appomattox). As Dr.

Robertson testified to the commission at its first meeting, "We must remember, because we cannot forget...what two generations of Americans bequeathed to us through their suffering."

The Virginia Sesquicentennial of the American Civil War Commission looks forward to working with other states as they begin to plan for the 150th anniversary of the American Civil War. The beginning of the commemoration period is fast approaching and promises to provide an opportunity to better understand our past so that we can come together to embrace our future.





# The “Gift of Life”:

## Financial incentives to organ donation

By Christie Raniszewski Herrera

These days, donating a human organ is often touted as the ultimate “gift of life.” In fact, a simple Google search on the subject yields about 282,000 hits. Webster’s Dictionary defines the term “gift” as “something acquired without compensation.”

But not all “gifts” are given without the expectation of something in return. For example, my husband and I give to several free-market causes each year in exchange for receiving their research and newsletters—and a nice tax deduction. And during their yearly fundraising drive, my local public radio station pushes donations that “pay for themselves” with membership cards earning donors restaurant discounts and other perks.

Americans are squeamish when considering organ donation as anything but a “gift” in the literal sense of the word. We’ve all heard about the false urban legend in which robbers drug business travelers, put them in bathtubs full of ice, and make off with kidneys to be sold on the black market.

That’s not the only concern. Some worry that financial incentives to organ donation will encourage families to “pull the plug” on their loved ones in order to harvest organs; others claim that market incentives will give the rich an unfair advantage to monopolize the organ supply.

Are these fears real or exaggerated? Is it impractical to rely on selfless “gifts” from organ donors to meet the needs

of patients? Or do financial incentives put a price on the priceless human body?

### THE ORGAN SHORTAGE



The United Network of Organ Sharing (UNOS)—the government-contracted monopoly that maintains the organ waiting list—estimates there are more than 95,000 candidates currently on the waiting list for an organ. Figure 1 (on page 6) shows that the majority of these candidates, more than two-thirds, are waiting for a kidney. Figure 2 (on page 11) shows that, of those kidney candidates, more than 42 percent will wait for a kidney for at least two years. Last year, 3,879 kidney candidates on the waiting list died before they could find a suitable match.<sup>1</sup>

Kidney candidates are a major focus of organ donation policy because one, they make up a majority of the waiting list, and two, the kidney shortage can be alleviated by donations from the living. Unlike other organs, humans have two

kidneys and can live normal lives with one healthy kidney. So why aren’t more potential, living kidney donors stepping up to the plate?

Although kidney donors may have different reasons for giving, the federal government requires that donors’ motives be purely altruistic. The 1984 National Organ Transplant Act (NOTA) states that “it shall be unlawful for any person

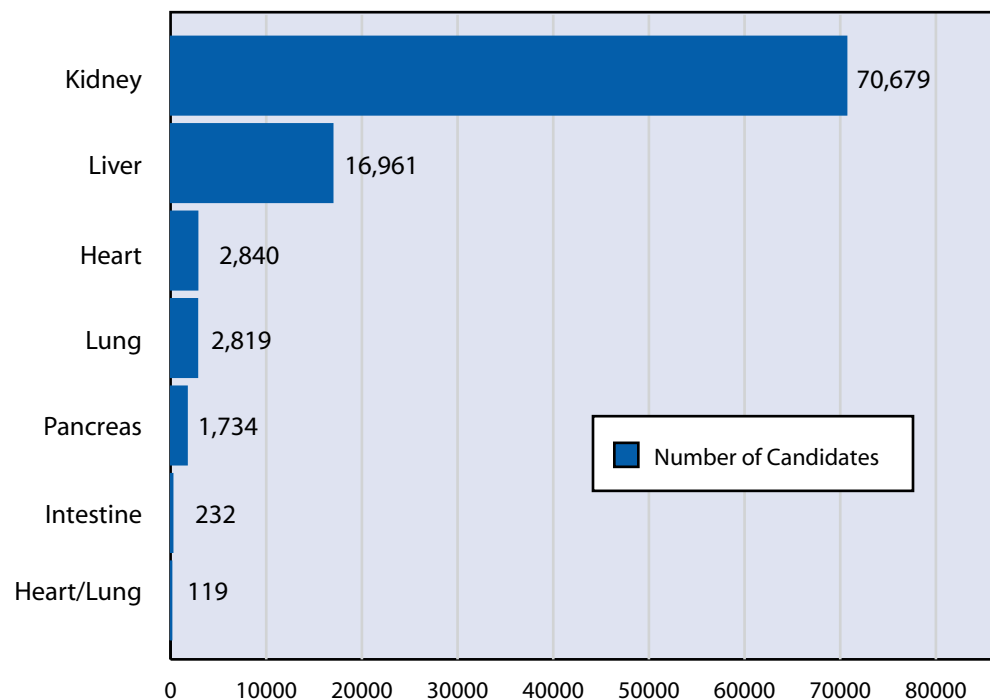
to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transportation.”<sup>22</sup> NOTA’s passage stemmed from concerns of black-market organ sales in developing countries<sup>3</sup>—indeed, the U.S. Senate committee report accompanying NOTA said “human body parts should not be viewed as commodities.”<sup>24</sup>

Although UNOS and other organizations have begun to discuss the idea, some in the medical community still frown on financial incentives—or similar motives—for organ donation. Last May, the Institute for Medicine dismissed financial incentives because they would “lead people to view organs as commodities and diminish donations from altruistic motives.”<sup>25</sup> American Enterprise Institute Resident Scholar Sally Satel, herself a kidney transplant recipient, used MatchingDonors.com, a \$295-per-month Web site, which has brokered 36 transplants to date.<sup>6</sup> Even if Satel had found a donor through the site (she didn’t), New York University Hospital might have refused to perform the transplant, claiming that patients who use MatchingDonors.com have an unfair advantage over those without Internet or computer access.<sup>7</sup> Dr. Mark D. Fox, former UNOS Ethics Chairman, opposes the use of such Web sites, stating that transplantation “is a socially important cause, and there’s integrity, an intrinsic logic, and a sense of solidarity behind our system” that is compromised by the use of such Web sites.<sup>8</sup>

## FILLING THE DEMAND

In its 1993 white paper on financial incentives to organ donation, UNOS notes that current efforts are doing little to resolve the organ shortage. In fact, the list of potential recipients is approaching 20 percent per year while the number of donors has risen by only half that percentage over the same time period.<sup>9</sup>

**Figure 1: Current U.S. Waiting List: Overall by Organ**



Statistics as of March 23, 2007  
Source: Organ Procurement and Transplantation Network, United Network of Organ Sharing

In lieu of financial incentives, state and federal governments have been taking other steps to increase the number of organ donations. The most common approach is allowing potential organ donors to “consent” as such on drivers’ licenses. Equally similar—and benign—approaches include Pennsylvania’s program, which allows citizens to contribute \$1 to defray donors’ transplant expenses,<sup>10</sup> and Georgia’s program, which offers a \$9 discount on drivers’ licenses for potential donors.<sup>11</sup> Additionally, the U.S. House of Representatives recently passed the *Charlie W. Norwood Living Organ Donation Act*, which would help patients who already have a willing-but-incompatible donor “trade” with another patient in the same situation. Congress intervened because many transplant centers refused to perform kidney “trades,” citing NOTA, which makes it a felony to give or receive something of worth in exchange for an organ. It’s estimated that in the first five years after its enactment, *Norwood* would increase live kidney transplants by 14-30 percent, knocking up to 6,500 people off the waiting list.<sup>12</sup>

More recently, however, there have been some questionable policy propositions surrounding the organ shortage. In November 2004, the U.S. Department of Health

Continued on page 11

# Poison Pet Food: A Boon for Trial Lawyers?

By Kristin Armshaw

The massive recall of pet food in late March caused understandable panic among pet owners. Although frightening and unfortunate, it was a valuable reminder to avoid extreme legal reactions based on such emotional cases.

In late March, Menu Foods announced the recall of 60 million containers of its “Cuts and Gravy” style pet food sold in stores between December 3 and March 6. The recall was issued two weeks after a routine taste test resulted in the deaths of nine cats. Following the deaths of more than 100 animals, individual and class-action lawsuits were filed on behalf of pet owners across the nation.

FDA testing found that the contaminated pet food contained melamine, which was formerly used as an abortifacient in the U.S. and is still used as rat poison in some foreign countries. When ingested, melamine causes severe illness, including organ failure, in animals.

Menu Foods has offered to pay the veterinary bills of animals whose illnesses or deaths can be directly linked to consumption of the contaminated food. However, it may be difficult for some owners to prove causation, as kidney failure is the cause of death for most cats.

The legal action taken against Menu Foods has seen most pet owners seeking compensation for the costs of their pets and their veterinarian bills, some of which are as high as \$8,000. However, other grieving pet owners are asking for compensation for the emotional harm caused by the loss of their pets.

In addition, advertisements seeking individual plaintiffs to join class-action litigation against Menu Foods (and some of the company’s product distributors) are popping up







all over the Internet. The first class-action suit was filed in federal court in Seattle, where the attorney involved speculated that the state's consumer-protection laws and sympathetic judges make Washington an attractive state to test the system.

It is necessary to draw a line between the emotional aspect of this situation and the integrity of state and federal law. The massive recall and the media attention it has garnered drew attention to the classification of animals as property and what that means in legal terms. Unlike the loss of a spouse or a child, nearly all courts prohibit the awarding of damages for loss of companionship, pain and suffering, or other non-economic damages. In the eyes of the court, a dog or cat is the same as a car or a boat.

Of course, pet owners can seek economic damages in court. This is typically an amount equal to the cost of the property at purchase. Courts may also consider other costs, such as veterinary expenses or the cost of training a replacement pet. If the law is adhered to, it is very unlikely that pet owners will reap more than pure economic losses. Even the attorneys filing class-action suits admit it will be a challenge to argue for non-economic damages.

At first glance, this seems unfair. Pets are a part of many people's families, and it can be extremely difficult for many to replace their loss. A person's car may be loved, but it can be replaced with the right amount of money.

The sensitive nature of the pet food recall has invigorated a push to challenge current law. It is unsurprising that some attorneys seek to capitalize on the tragedy to test the courts. Just days after the recall, attorney David P. Lowe of Jacquart & Lowe, S.C. wrote, "This may be the appropriate time to test the old assumptions and make some new law in this area."

Even prior to the recent recall, trial lawyers and animal activists have been waging a campaign to challenge current law in the courts and pass legislation to change the law in the states. Two states, Illinois and Tennessee, have already passed laws permitting limited recovery of non-economic damages in animal litigation. A number of other states have unsuccessfully attempted to enact similar legislation that would either reclassify animal "ownership" as animal "guardianship" or legislation that would allow for pet owners to collect emotional harm damages in animal litigation.

Although changing the terminology from owner to guardian may appear insignificant on the surface, it is actually a well-calculated attempt to place legal



obligations and restrictions on animal ownership. Guardians do not own the property of which they are guardians. With such a change comes greater government intervention and legal obligation. Pet owners could be required to provide a certain level of care or even file annual reports with a central registry. Third parties, such as some activist groups, could file suit against a pet owner on behalf of his or her animal to prevent it from being spayed, neutered, or de-clawed. This could easily become a tool of extremist animal rights groups in their efforts to save animals from being eaten, skinned, or used in medical testing.

Another effort to change animal law is legislation to permit non-economic damages in animal litigation. This type of legislation capitalizes on the feelings people have for their pets in an attempt to legally declassify pets as “property.” Such legislation would wrongfully confer to pets, livestock, and other animals similar legal rights as human beings. This change would increase the size of potential judgment awards in animal litigation and would thereby make the suits more profitable and attractive to many trial lawyers.

For the sake of America’s pets, pet owners, and veterinarians, the courts should remain consistent in their interpretation of current law and law makers should avoid the temptation to enact reactionary legislation. Current law has created an extremely pet-friendly environment in the United States. A recent survey from the American Pet Products Manufacturers Association (APPPMA) for 2005-2006, showed pet ownership at an all-time high in America with 63 percent of households owning pets.

Such legislation would also increase veterinarians’ liability risk, which would significantly raise the cost of veterinary bills and lead to decreases in veterinarians willing to perform riskier surgeries. As a result, fewer people would be able to afford pets, or more troubling, fewer pets would receive adequate medical care. Imagine what the number of unwanted cats and dogs would be if people avoided spaying or neutering their pets because of the excessive cost.

Even non-pet owners would be affected by a change in the law. A person could theoretically be liable for significant sums of money if they accidentally hit an animal or if an animal gets injured or killed on his or her property. This liability risk will increase the cost of auto and homeowner insurance, adding to the estimated \$9,827 in “tort taxes” the average American family already pays each year.

America’s agricultural economy will also be hit by such changes. With increased liability risks and insurance costs, farms will be forced to cut costs by raising less livestock, purchasing fewer veterinary services, or raising prices on consumers.

The recent pet food contamination tragedy should serve as a reminder that knee-jerk litigation and legislation be avoided in such emotive cases. Animals, pet owners, veterinarians, farms, and the general public are best served by the law as it currently stands.

*Kristin Armshaw is the Senior Task Force Director and the Director of the Civil Justice Task Force at ALEC.*



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# ALEC STAFF UPDATE

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

ALEC's national staff is expanding to bring our members better service and help promote our shared principles in the states. The addition of Michael Correia, Rachael Heiner, Chaz Cirame, Meredith Hanley, Mike Conway, and Amy Kjose will bring valuable experience, further dedication, and new ideas to ALEC.

As the new Director of Federal Affairs, **Michael Correia** said he is excited about the opportunities present here at ALEC and is ready to work with ALEC alumni on Capitol Hill, where he worked for 10 years.

"It is an honor to join ALEC, and I look forward to the upcoming year," said Correia.

Michael's 10-year experience on Capitol Hill includes nine years on the House Resources Committee, serving three different chairmen. For the past two years, he handled legislative matters for the Water and Power Subcommittee.

In previous positions on the committee, he served as Deputy Communications Director and was also a legislative assistant to the Chief Counsel. He has a degree in Political Science from the University of California, San Diego.

**Chaz Cirame** brings to ALEC almost a decade of experience working in development, politics, and public policy. Prior to joining ALEC, he worked as the Director of Development for Students for Saving Social Security where he was responsible for all fundraising operations, including major gifts, direct mailings, and coalition building.

"I'm very excited to be here," Chaz said. "I found ALEC to be a perfect fit, with my background working in the (Maine) State Legislature and experience working for public-policy nonprofits."

Chaz has also served as a caucus aide to two committee chairs in the Maine State Senate, and served as a political director, field coordinator, and marketing manager at the grassroots level in Maine.

Our other corporate director, **Mike Conway**, Director of Corporate Programs, brings more than 15-years experience in state government relations, lobbying, membership services and marketing with organizations such as The Council of State Governments and the Motorcycle Industry Council.

Most recently, Conway was Manager of Legislative Affairs for the Motorcycle Industry Council, the international

trade association representing the motorcycle and ATV manufacturers, where he lobbied on both the state and federal levels.

Also joining the membership team is the new Director of Donor Relations, **Meredith Hanley**, formerly with the Center for Excellence in Education (CEE).

As Director of Development at CEE, Meredith coordinated all aspects of fundraising, including annual appeals, grant writing, retaining and recruiting donors, events, and strategic planning. Meredith worked directly with local individuals and policy leaders in Washington, D.C. and various industry sectors nationwide to secure funding and to advance the mission of the Center.

"ALEC offers me a unique opportunity to work with committed donors, innovative policymakers, creative leadership, and a dedicated staff," Meredith said. "I look forward to working closely with our members, ensuring that each maximizes their partnership with ALEC."

Additionally, **Rachael E. Heiner** has been named the new Director of Events and Meetings.

Rachael comes to ALEC from the Biotechnology Industry Organization (BIO), where she served as Manager for International Relations. Rachael was responsible, in part, for planning BIO's Annual International Convention with 22,000 attendees; more specifically the international programming where she increased international

attendance by 10 percent and oversaw a 50 percent increase in high-level, international public official participation.

Rachael also worked in BIO's Food and Agriculture section, planning quarterly Board of Directors meetings and organizing small biotech trade show demonstrations on Capitol Hill.

Finally, ALEC is happy to announce that **Amy Kjose** has been "promoted" to the position of Legislative Assistant to the Civil Justice and Natural Resources Task Forces.

Amy previously served as a General Policy/Foreign Affairs intern in ALEC's Public Affairs Department. As Legislative Assistant, she will conduct research, work on publications, and perform administrative duties for the Civil Justice and Natural Resources Task Forces.

Amy graduated from Johns Hopkins University in January with a degree in International Relations.



The ALEC team is expanding as five new faces, and one familiar one, join the important effort to promote Jeffersonian principles in the states. From left to right: Michael Correia, Amy Kjose, Meredith Hanley, Chaz Cirame, Rachael Heiner, and Mike Conway.



## Gift of Life

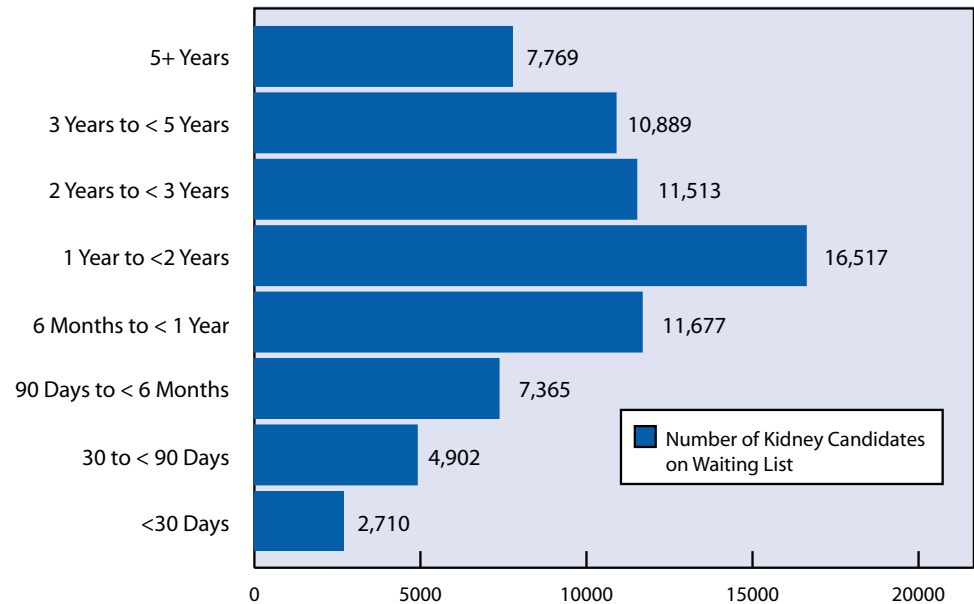
Continued from page 6

and Human Services Advisory Committee on Organ Transplantation unanimously agreed on a resolution encouraging states to adopt a policy of “presumed consent.” Currently, the default assumption is that individuals prefer not to donate their organs after death. “Presumed consent” means that authorities would automatically assume that, upon death, a person always chooses to donate his or her organs for transplantation.<sup>13</sup> In other words, act first, and ask questions later.

In March, UNOS and the Joint Committee on Accreditation of Healthcare Organizations, which accredits hospitals, announced they would require all hospitals to decide whether to allow DCD, or “donation after cardiac death.” Under DCD, surgeons remove organs within minutes after the heart stops beating and doctors declare a patient dead. In some instances, such as in Denver Children’s Hospital, doctors wait 75 seconds before starting to remove hearts from infants to maximize the chances that the organs will be usable. Perversely, a UNOS spokesman praised the practice, saying, “People are dying on the [organ] waiting list.... This is vital as an untapped source of organ donors.”<sup>14</sup>

Also in March, UNOS announced it may soon change its kidney rationing policy to favor young patients rather than the elderly. UNOS says its proposed “net-benefit” approach—in which kidneys will be given first to those who will “benefit the most”—will net kidney transplant recipients an extra 11,000 life years. But as Tufts-New England Medical Center Transplant Surgeon Richard Freeman asks in the *Wall Street Journal*, “Is it correct or permissible for the system to say the five or six more years of life that a 60-year-old is going to get are less valuable, less important than the 15 more years of life the 30-year-old is going to get?”<sup>15</sup>

**Figure 2: Current U.S. Waiting List: Average Waiting Time for Kidney**



Statistics as of March 23, 2007  
Source: Organ Procurement and Transplantation Network, United Network of Organ Sharing

### FINANCIAL INCENTIVES

Some efforts to increase the organ supply within the confines of NOTA are questionable at best. It is clear that altruism alone will not increase the organ supply. Increasingly, many analysts are calling the repeal of NOTA in favor of a free and open “organ market,” like existing markets for human tissue, hair, and sperm.<sup>16</sup> Direct payments would potentially increase the overall number of organ donations (thus potentially making organ donations safer), and compensate donors for the high risks and costs associated with donation. However, the “organ market” idea still has enormous ethical and legal obstacles to overcome.

Luckily, there’s a way to incentivize potential living organ donors to “give”—tax breaks. Supporters of such an idea say removing financial deterrents to donation—by reimbursing living donors for their donation expenses—sidesteps NOTA because no one stands to “profit.”<sup>17</sup> Because living donors can donate one kidney and still live a healthy life—and because kidney patients comprise more than two-thirds of those waiting for an organ—tax breaks may help to move tens of thousands of people off the organ waiting list.

# ALEC POLICY FORUM

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

State legislation allowing for organ donation tax breaks originated with ALEC Member and Wisconsin Rep. Steve Wieckert (R-Appleton), who believed living organ donors should not have to suffer financial hardship because of donation itself. One of Wieckert's constituents, truck driver Marty Monroe, lost \$6,000 in wages while donating a kidney to his eight-year-old son, Cody. Wieckert found out that although NOTA bans outright payment for organs, it excludes reimbursement for some expenses for living donors, including travel, lodging, and lost wages. He also realized that, in researching the associated financial costs of organ donation, Cody's story wasn't isolated. On average, a liver donor forfeits \$4,246 in lost wages, and a kidney donor loses an average of \$4,124 in wages.<sup>18</sup>

Thus "Cody's Law," which provides a tax deduction for up to \$10,000 while donating a human organ, was born. Wisconsin's "Cody's Law" was enacted in 2004, and in December 2005, ALEC's Health and Human Services Task Force unanimously adopted "Cody's Law" as its own model legislation, the *Organ Donation Tax Deduction Act*. In all, 13 states have enacted ALEC's *Organ Donation Tax Deduction Act*, and in the 2007 session, nine states have had pending legislation on the subject.

## CONCLUSION

The current shortage suggests that we cannot rely on strangers to increase the organ supply. As such, many in the public policy community are debating whether to abolish NOTA and create a free—but appropriately-regulated—market for organs. Although some believe that such a market would be demeaning to a culture of life, others suggest that, as in other aspects of health care, market forces in organ donation will help to lower costs, increase quality, and save lives. In

the short term, tax breaks—as prescribed in ALEC's *Organ Donation Tax Deduction Act*—will help policy makers in finding a solution.

*Christie Raniszewski Herrera is the Director of the Health and Human Services Task Force at ALEC.*

- 1 Organ Procurement and Transplantation Network, "Removal Reasons by Year (Kidney Candidates)," 2006.
- 2 Hatch, Senator Orrin G, National Organ Transplant Act of 1984, S.2048.
- 3 Fry-Revere, Sigrid, "A Federal Organ Grab Without Consent," Cato Institute Daily Commentary, November 2, 2006.
- 4 Mayes, Gwen, "Buying and Selling Organs for Transplantation in the U.S.," Med-Scape, December 9, 2003.
- 5 Epstein, Richard, "Kidney Beancounters," *The Wall Street Journal*, May 15, 2006.
- 6 Satel, Sally, "The Waiting Game," American Enterprise Institute, May 1, 2006.
- 7 Satel, Sally, "The Kindness of Strangers, And the Cruelty of Some Medical Ethicists," *The Weekly Standard*, May 29, 2006.
- 8 Berdik, Chris, "I'll Give You My Heart (but I Might Need Your Liver)," *The Boston Globe*, January 11, 2004.
- 9 Nelson, Edward W., et.al., "Financial Incentives to Organ Donation," A Report of the Payment Subcommittee, United Network for Organ Sharing Ethics Committee, June 30, 1993.
- 10 Calandrillo, Steven P, "Cash for Kidneys? Using Incentives to End America's Organ Shortage," *George Mason University Law Review*, Fall 2004.
- 11 "Kidneys Needed," *The Washington Post* Editorial, October 15, 2006.
- 12 Satel, Sally, "Doing Well by Doing Good," *The Wall Street Journal*, March 16, 2007.
- 13 U.S. Department of Health and Human Services' Advisory Committee on Organ Transplantation, Recommendation 37, November 4-5, 2004.
- 14 Stein, Rob, "New Trend in Organ Donation Raises Questions," *The Washington Post*, March 18, 2007.
- 15 Meckler, Laura, "More Kidneys for Transplants May Go to Young," *The Wall Street Journal*, March 10, 2007.
- 16 For a good representation of this idea, see: Boudreaux, Donald J., "A Free Market in Body Organs," *Pittsburgh Tribune-Review*, May 31, 2006; Boudreaux, Donald J., "Don't Fear the Market," *Pittsburgh Tribune-Review*, June 20, 2006; and Boudreaux, Donald J., "Selling Organs; Two Alternate Plans," *Pittsburgh Tribune-Review*, July 10, 2006.
- 17 Feifer, Jason, "Paying Big to Be a Donor," *The Washington Post*, March 20, 2007.
- 18 Wieckert, Representative Steve. "Cody's Law": <http://www.legis.state.wi.us/assembly/asm57/news/newweb/codyslaw.html>.



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# The Minimum Wage Trap:

## Circular reasoning and the CPI

By Rep. Susan Lynn  
57th District, Tennessee



For most of us, our entry into the working world started at the minimum wage. We knew it not as a way of life, but as an opportunity to learn job skills and gain real world experience.

Unfortunately, some command-and-control politicians paint a picture that minimum-wage workers are stuck at the bottom rung of the economic ladder and only government control of

the economy can save them. Some states have set their own minimum wage higher than the federal wage. A few others try to offset inflation by linking their minimum wage to the Consumer Price Index (CPI). As the CPI rises, the state's minimum wage rises accordingly.

This year, Tennessee Democrats are offering a similar minimum-wage bill linked to CPI. The idea is to aid minimum-wage workers in keeping up with inflation and give employers predictability for wage increases.

It sounds reasonable; however, mandated wage hikes actually hurt the very people they are trying to help—low-skilled and entry-level employees. Such hikes force employers to make strategic decisions to overcome increased labor cost. Low-skilled and entry-level employees lose on-the-job training opportunities as employers leave jobs vacant, reduce hours, forgo raises, and raise prices in order to pay the higher wage. All of these effects make jobs either harder to find or make life more expensive.

If that's not bad enough, the idea of indexing the wage to CPI uses circular reasoning and creates inflation in the economy. The problem lies with the CPI indicator itself, which is a measure of the rise or fall in prices of commonly used goods and services as compared to a benchmark year. The CPI is, in fact, directly affected by wage hikes.

Any legislation that mandates an increase in wages, as a result of an increase in the CPI, would produce higher costs, which translate into higher prices, thus raising the CPI even higher and thereby triggering another increase in minimum wage. This effect is circular and compounding.

The truth is two-thirds of all those who start working at the minimum wage will make more than the minimum within a year. Most of those workers are high school or college students working their first job, retired persons, stay-at-home parents, or second income earners who are only looking for part-time work with flexible hours to supplement income from other sources. All of these people are perfectly capable of earning higher wages.

Although there are low-skilled workers who earn the minimum and struggle to get by, it is important to remember that government and the private sector already help the truly poor without raising prices for all consumers or making it harder for those at the bottom to find work. The earned-income tax credit multiplies the earnings of the poor while providing an incentive to work. Food stamps allow the seller of food to get their price while increasing the buying power of the poor. Private charitable organizations supply food and clothing to those in need. The state of Tennessee and groups like Habitat for Humanity help low-income workers become homeowners—the number one way to build personal wealth. Medical care through TennCare and county health departments also lend assistance.

We know that education is the very best way to increase earning power and ensure escape from a lifetime of poverty. Widely available GED programs, career colleges, technical schools and traditional colleges offer the working poor the best way toward better lives and improved earning power.

America has a rich history of people who started with very little and through hard work, motivation and opportunity, carved out a piece of the American dream. We should not push employers down in order to raise workers up. Doing so will only make the dream more difficult to achieve.

*Rep. Lynn is an ALEC member and the Chairman of the Commerce, Insurance, and Economic Development Task Force. For more news and commentary check out Rep. Lynn's Blog at <http://susan-lynn.blogspot.com>*

# Stopping Global Warming: All cost, no benefit

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are at a 10-year high. “2006 was the year of government green spin, but the numbers don’t lie,” said Charlie Kronick, a Greenpeace climate campaigner, as reported by *The Independent*. He’s right; they don’t.

The UK’s 2006 carbon dioxide emissions were 1.15 percent above its 2005 levels, but more importantly, they are 3 percent above its 1997 levels. Environmentalists in the UK are saying the government is not on course to cut carbon dioxide emissions by 30 percent by 2020 and will also miss their target of 20 percent by 2010.

If Rep. Boucher wants to learn from the Europeans, here’s the lesson: the cap-and-trade program isn’t reducing carbon dioxide emissions.

Additionally, energy prices in the UK have risen 16 percent, in part because of their energy policies. Jill Duggan of the UK Department of Environment, Food, and Rural Affairs told Congress only about one-third of the price increase could be attributable to the carbon cap. In response, Rep. Jay Inslee asked rhetorically if a 6 percent rise in energy prices was worth avoiding dramatic changes to the climate. To the average American and low-income family, yes, increasing energy prices is too much to ask.

If the costly Kyoto Protocol were fully implemented, it would only avert an increase of 0.07 of a degree Celsius by 2050 and 0.14 by 2100. This assumes that not only the UK meets its targets, but the rest of Europe meet their targets *and* the United States reduces greenhouse gas emissions by about 20 percent. The great payoff for the carbon dioxide reductions is an insignificant 0.14 degree Celsius by 2100. Such a small change would do next to nothing to cool the climate; it will only cool down economic growth.

Even as Europe preaches to the U.S. on the necessity to cap carbon dioxide emissions, Europe’s emissions are climbing faster than those of the United States. Recent figures from the International Panel on Climate Change show that from 2000 to 2004, greenhouse gas emissions increased by 2.1 percent in the European Union, but only 1.3 percent in the United States. Neither amount is a dramatic increase, but Europe is supposed to be *reducing* its greenhouse gas emissions, not increasing them.

Almost all the global warming policies have high costs and yield little benefit. The chanters of the global warming mantra want us to believe Europe is “doing something” and that we should “do something,” too. Indeed Europe has done something. They have raised prices and not lowered carbon emissions.

The United States should not succumb to the global warming mantra. Instead we should take cost-effective actions, not actions that are all cost and no benefit.

*Daniel Simmons is the Director of the Natural Resources Task Force at ALEC.*

*Cost-effective actions will be addressed in future issues of Inside ALEC.*



## Task Force Updates

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### Telecommunications and Information Technology Task Force

The Telecommunications and Information Technology Task Force will consider amendments to ALEC's *Resolution on Network Neutrality* during the Spring Task Force Summit. In state legislative efforts, Missouri became the most recent state to enact statewide franchise reform when Gov. Matt Blunt signed SB-284 in March. In Wyoming the legislature passed three telecom-related bills: SF 78—a rewrite of the state's 1966 Telecommunications Law; SF 80—relating to exclusive contracts (including telecom) with municipalities; and HB 178—telecommunications taxation reform. ALEC is also monitoring efforts in several states for stricter regulation of online dating services and social-networking Web sites. In Congress, oversight hearings have been held for the FCC and NTIA as well as on USF and the DTV transition; however, legislative efforts have primarily focused on areas of identity theft, Internet safety, and telecom/Internet taxation.

### Education Task Force

The Education Task Force welcomes its new public-sector chair, Colorado Sen. Nancy Spence. Senator Spence is a proven leader on education issues in Colorado having previously served three terms in Colorado's House of Representatives and 12 years as a member of the Cherry Creek Board of Education. In January, the Friedman Foundation invited local experts to brief ALEC members in Georgia on special-needs scholarship legislation. In March, thanks to Task Force member American Council of Trustees and Alumni, Virginia, Montana, Georgia and Missouri all had lively debates in legislative hearings and in the media on the importance of ensuring a free exchange of ideas on America's college campuses and ALEC's *Intellectual Diversity in Higher Education Act*. Finally, in April, the Alliance for School Choice and the Friedman Foundation gave presentations to ALEC public-sector audiences in North Carolina, Georgia, and Nevada, three states where legislative activities are moving steadily toward more choice for parents and students.

### Natural Resources Task Force

Chris Horner, author of the best-selling *Politically Incorrect Guide to Global Warming and Environmentalism* will discuss climate change with Task Force members at the Spring Task Force Summit. Also on the agenda are nuclear energy, mercury, and the problems with conservation easements.

### Criminal Justice and Homeland Security Task Force

ALEC members Sen. Jeff Wentworth and Rep. Joe Driver both sponsored a version of ALEC's *Castle Doctrine Act* in their respective chambers. It will give Texans the opportunity to stand their ground when defending their homes and families, and it will make sure they are not treated like the criminals who have invaded their homes in the first place. The model *Castle Doctrine Act* was approved by the full Criminal Justice Task Force at the 2005 Annual Meeting in Grapevine, Texas.

### Tax and Fiscal Policy Task Force

At the Spring Task Force Summit, Jonathan Williams of the Tax Foundation, Steve Stanek of the Heartland Institute, and Bob Williams of the Evergreen Foundation will each have presentations. The meeting will also feature Dr. Richard Vedder of The Ohio University, who serves as a member of the ALEC Board of Scholars. Finally there will be a presentation by Gordon Reel of Enterprise discussing the targeting of tax revenue on the rent-a-car industry.

Also, ALEC is in the process of hiring a Tax and Fiscal Policy Task Force Director. Michael Bowman, Senior Director of Policy and Strategic Initiatives, is serving as acting director.

### Commerce, Insurance, and Economic Development Task Force

There has been great movement in the states with bills based on ALEC's model *Resolution on the Enhancement of Economic Neutrality, Commercial Efficiency, and Fairness in the Taxation of Moist Smokeless Tobacco Products* and *Statement of Principles Regarding State Ad-Valorem Taxes on Consumer Products*. Iowa recently enacted this bill, and it is still active in several other states. The bill aims to change the antiquated tax law in 39 states that still use it to ensure all like products will be taxed the same. It will also eliminate a tax preference for inexpensive products that could harm state revenue.

Last December, ALEC approved the model resolution entitled, *Resolution Opposing Government Mandated Disclosure of Proprietary, Trade Secret Information*. Twenty-one states are considering legislation, which ALEC opposes, that would require Pharmacy Benefit Managers (PBMs) to disclose to their clients, and to various state agencies, very specific and detailed information about their proprietary contracts

# Task Force Updates

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with drug manufacturers. These proposals are drafted in several different forms and are often bundled with other requirements that would further interject the government into the private contract setting.

## Health and Human Services Task Force

ALEC's Health and Human Services Task Force is pleased to welcome Iowa Rep. Linda Upmeyer and Virginia Sen. Steve Newman as its public-sector co-chairs and PhRMA's Julie Corcoran as its private-sector chair. Representative Upmeyer, Sen. Newman, and Ms. Corcoran were appointed to lead the HHS Task Force because of their leadership and dedication to ALEC's Jeffersonian principles.

On March 1, HHS Task Force Director Christie Raniszewski Herrera served as moderator for the panel "Conservative Health Care Reform: Dead on Arrival?" at the 2007 Conservative Political Action Conference. On March 28, Christie submitted written testimony to the Texas House Public Health Committee in support of Texas House Bills 3466 and 3792, the model for which is ALEC's *Market-Based Medicaid Reform Act*. Also in March, Christie joined the group blog [StateHouseCall.org](http://StateHouseCall.org), which is a health reform project of the State Policy Network.

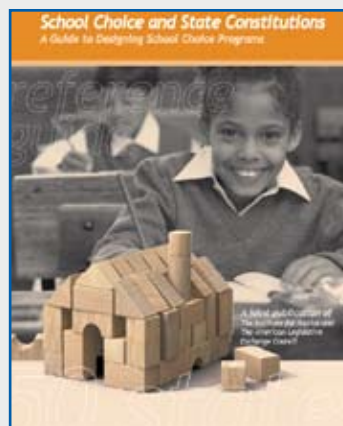
Finally, ALEC's HHS Task Force would like to welcome its new members: State Policy Network, The Heartland Institute, and Amylin Pharmaceuticals. Welcome!

## Civil Justice Task Force

The Civil Justice Task Force will meet during the Spring Task Force Summit to consider two pieces of potential model legislation: the *Regulatory Compliance Congruity with Liability Act*, which assures a state's civil justice system is congruent with applicable regulatory systems and that these

two principle areas of law do not work at cross purposes, and the *Transparency in Lawsuits Protection Act*, which is an effort to reform the existing civil justice system to assure there is transparency in regulatory legislation adopted by a state that may create a new right to sue. In addition, there will be presentations on elimination of statutes of limitations in certain cases and state civil justice reforms this session.

## School Choice and State Constitutions



A new publication by the Institute for Justice and ALEC offers state-by-state analysis on the critical state constitutional provisions affecting new and proposed school-choice programs. This guide should be a mainstay for state legislators interested in advancing educational choice and opportunities in their states. Although the U.S. Supreme Court

has given the constitutional green light for school choice, many state constitutions include additional language that must be considered when crafting new programs. With this guide, lawmakers can quickly assess what the relevant provisions are in their states, how those provisions have been interpreted in their courts, and which school-choice program designs are best suited for their states' particular legal environment. For a copy of *School Choice and State Constitutions*, contact Matt Warner at (202) 742-8542.

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